



NEW SYSTEMS/EQUIPMENT: CAA Conformity or NEPA Air Quality Impacts



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The Future is Near





Many New Systems IN RD&A, OPEVAL, And/or FIELDING

- **MV-22 Osprey**
- **KC-130J**
- **JOINT STRIKE FIGHTER**
- **AAAV (Advanced Amphibious Assault Vehicle)**
- **5 Ton Trucks, HMMWVs, TQGs (tactical quiet generators)**
- **Replacement of Legacy Systems in Nonattainment (N/A) or Maintenance Areas triggers CAA Conformity and in Attainment Areas a NEPA Air Quality Impacts Analysis (AQIA)**
- **TREND = Replacements are More Powerful, Efficient, & Capable**
 - **NOx predicted to Increase while HC and VOCs decrease**





The CAA & NEPA

Issues

- **General Conformity Rule (GCR) in NEPA Maintenance areas is a Prohibitory Rule**
 - **Can't Take Action w/o Applicability Analysis and a *de minimis* or Positive Conformity Determination**
 - **GCR = SIP provision in most jurisdictions now**
 - **Non-Compliance = Potential NOV, Injunction, Admin Complaint, or Citizen Suit, & Monetary Penalties**
- **NEPA Requires Taking a “Hard Look” at “Relevant [Envtl] Factors” b/f Taking Action**
 - **Inadequate AQIA = Potential Delay in Fielding**



Applicability/AQIA

ISSUES

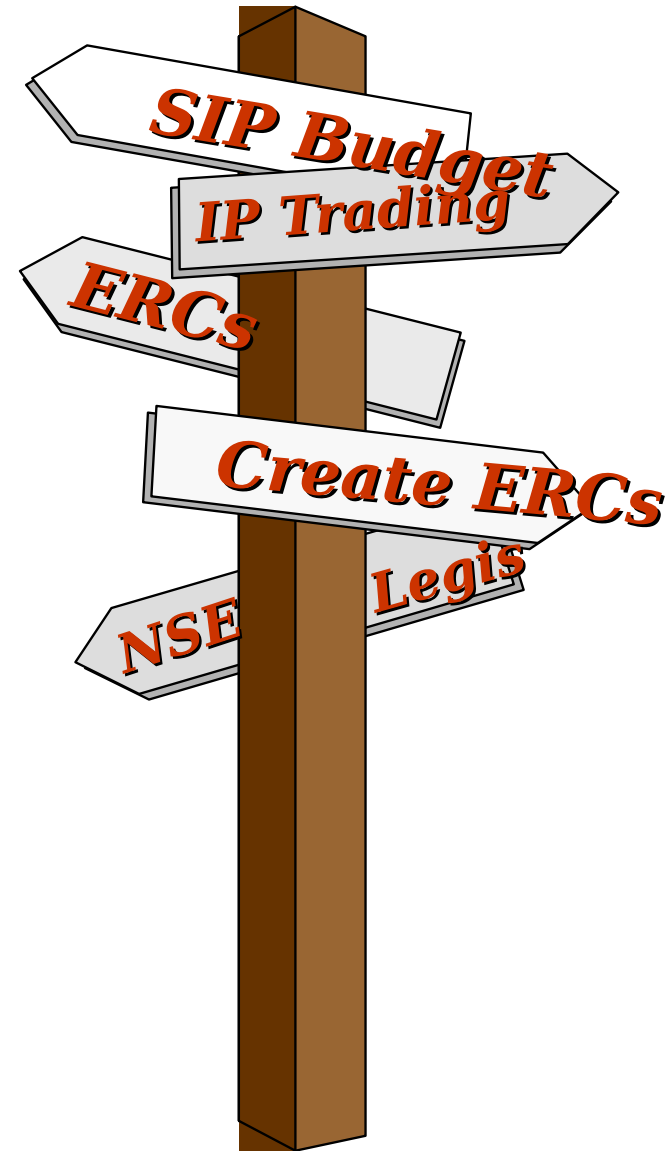
- **New & Legacy Relevant Factors**
 - Comparative Inventories
 - Comparative Operations (Activity Level)
 - Comparative Fuel (Diesel, JP 5, JP 8)
 - Emission Factors
 - Mfgr's FAA (aircraft) & EPA g/hr & g/m Certifications typically inadequate
- **Emission Factor Issues**
 - Adequacy or Existence for Comparison (CH-46 PM & V-22 PM; F/A-18 EPE; Vehicle Fuel Changes)
 - Time & Money
 - NADEPs & EMFs = Production not Testing
 - Who pays for Legacy testing never done?





Positive Conformity Determination

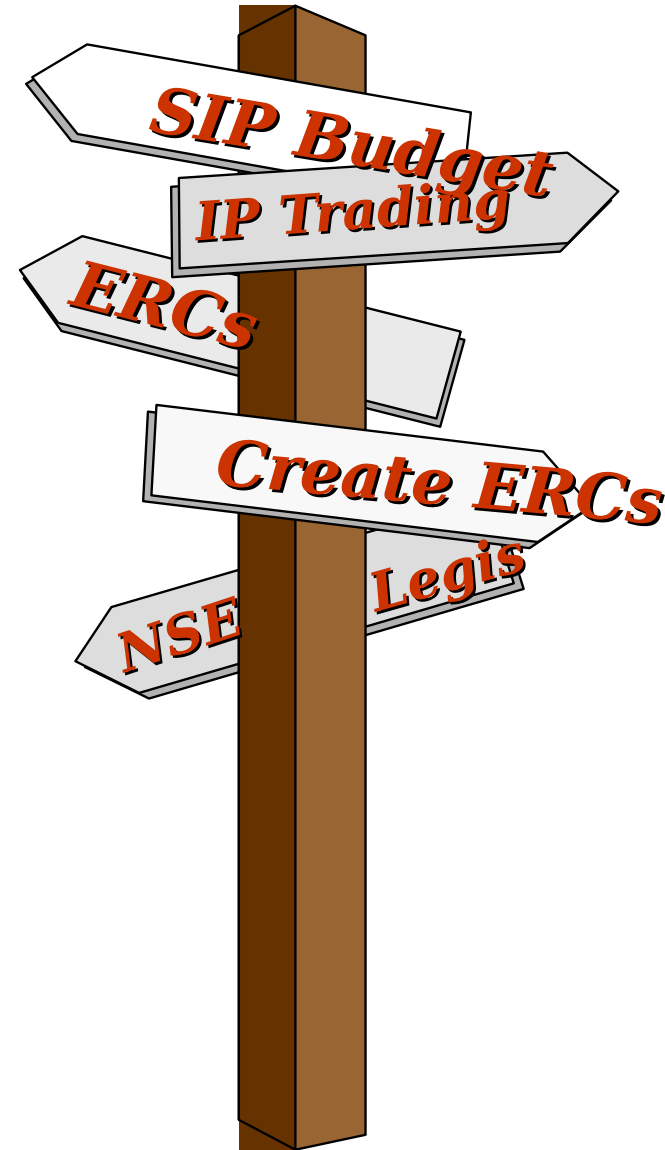
- **Interpollutant Trades:** NO_x & HC (San Joaquin Valley to F/A-18 E/F, but subject to air district discretion)
- **Obtain local Air District's determination** that emissions increases, along with all other emissions in the area, do not exceed existing SIP budget (Used for F/A-18C/D in Oceana)
- **Obtain State Governor's commitment** to budget JSF emissions increases in next SIP revision (subject to local air district discretion/State discretion and public scrutiny)





Positive Conformity Determination

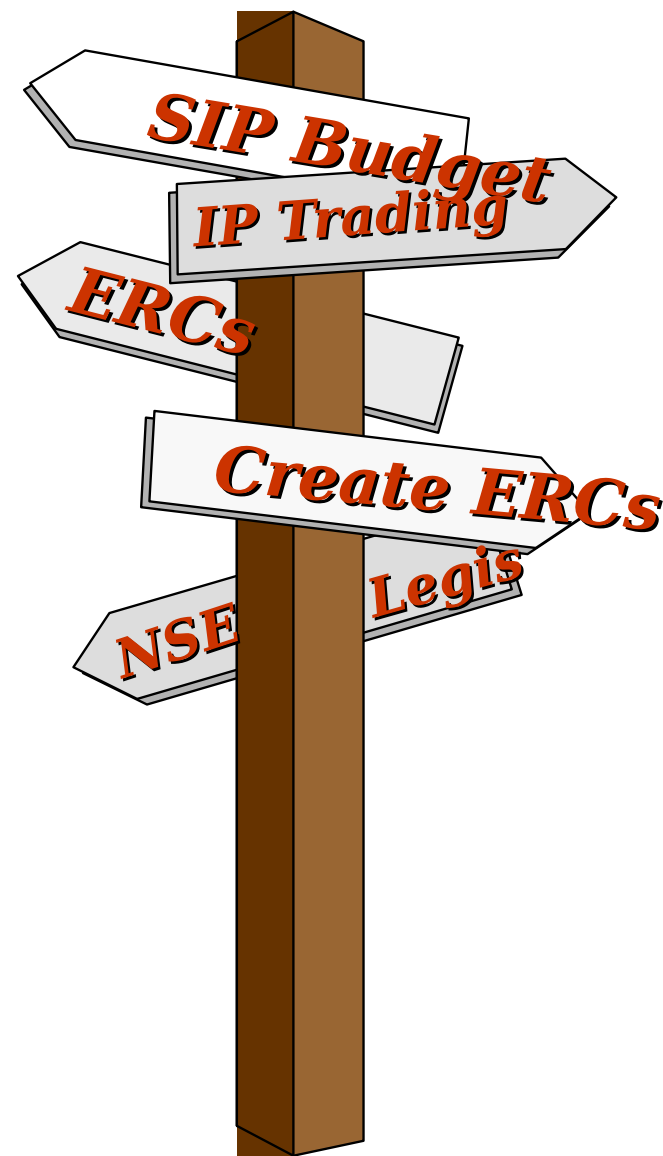
- **Purchase Existing Emission Reduction Credits (ERCs)** (Market or Market with NOx credits not always available)
- **Inter-basin Transfer of DOD-owned ERCs** -- From Up wind to Down wind basin (Requires protocol, subject to EPA approval and public scrutiny -- EHC opposes in San Diego)
- **Offset/mitigate emission increases** with reductions from other mobile or stationary sources (Must be real, permanent, quantifiable [usu. records for 2 years], and enforceable)





Positive Conformity Determination

- **Inter-basin Trading** of DOD-owned ERCs for privately held ERCs (Navy's Long Beach NOx RTCs traded for San Diego NOx ERCs for dredging)
- **Create Emission Reduction Credits** in Trading Areas with no existing ERCs (San Diego Utilities retrofitting charter fishing boats in return for ERCs)
- **Make Operational Changes to Proposed Action to reduce Emissions**





Positive Conformity Determination

- *If all the above fail to fully mitigate emission increases . . .*
- **Seek National Security Exemption (NSE) under CAA Sec 118(b)** [3 yr regulatory exemption] and/or **Special Legislation** (last resort -- only 2 NSEs granted in 30+ year history of all major environmental compliance laws)
- **QUESTIONS??**

